HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI H.L. DATTU, CJ &
HON'BLE SHRI V.K. SHRIVASTAVA, J.

WRIT PETITION NO. 111 OF 2006

PETITIONER Nityanand, Retired Gatekeeper, Jyotipur, Pendraroad, Distt. Bilaspur (CG).

Versus

RESPONDENTS

1. Chief Medical Officer, South Eastern Central Railway Hospital, Bilaspur, Distt. Bilaspur (CG).
2. Dr. Panda, South Eastern Central Railway Hospital, Bilaspur, Distt. Bilaspur (CG).
3. Dr. P. Khapre, South Eastern Central Railway Hospital, Bilaspur, Distt. Bilaspur (CG).
4. Dr. Dora, South Eastern Central Railway Hospital, Bilaspur, Distt. Bilaspur (CG).
5. Smt. Dr. Ramtake, South Eastern Central Railway Hospital, Bilaspur, Distt. Bilaspur (CG).

Present :

Shri Amiyakant Tiwari, Advocate appears as amicus curiae to assist the petitioner.

Shri Amit Choudhary, counsel for the respondents.

ORAL ORDER
(Passed on 21st March, 2007)

The following oral order of the Court was passed by **H.L. Dattu, CJ.**

The learned Chief Justice of this institution had directed the Registry to register the letter received by him from the husband of the deceased person as writ petition. That is how the matter is before us.

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2) In the letter it was alleged by the author of the letter that his wife died in Railway hospital due to negligence of the doctor, she was not attended after operation and the operation was conducted without the consent/signature of the husband.

3) The notice of Public Interest Litigation ("PIL" for short) was issued to the respondents. They have entered appearance and have also filed counter affidavits. In that they have denied all the allegations and assertions made by the author of the letter in his letter. In fact they went to the extent of saying that the wife of the author of the letter died after 10 hours of the operation and in fact the author of the letter had given his consent before the operation of his wife was conducted.

4) The respondents denied the assertion made by the author of the letter in his letter. In a matter of this nature, recording the evidence of the parties is absolutely required. This type of cases cannot be decided on the basis of affidavits and counter affidavits filed by the parties and in the absence of any documentary evidence to prove that the wife of author of the letter died due to negligence of the hospital authorities.

5) In view of the above, we are not inclined to grant any of the re[illegible]s sought for in the letter. Accordingly, this petition is disposed of. However, liberty is reserved to the author of the letter to either file an appropriate civil suit for appropriate reliefs or go before the consumer forum for appropriate orders and directions.

6) With the aforesaid observations and directions, the petition stands disposed of. Ordered accordingly.

Sd/-
V.K.Shrivastava
Judge

Sd/-
The Chief Justice